

violations of the Racketeer Influenced and Corrupt Organizations Act (18 U.S.C. § 1961, *et seq.*) (“RICO”), lack the essential RICO foundation and fail to plausibly allege Credit Partners’ or Cole’s participation in any possible or remotely plausible violations of RICO. Likewise, the state law claims of fraud, aiding and abetting breach of fiduciary duties, civil conspiracy, violation of the Texas Uniform Fraudulent Transfer Act, and respondeat superior/agency pled against Credit Partners and/or Cole in Counts IV and VI through VIX[sic] suffer from fundamental pleading defects and also fail to plausibly allege Moving Defendants’ participation in the alleged underlying fraud.

The dismissal should be with prejudice, and Plaintiffs should not be granted an opportunity to replead. In response to the initial Complaint filed in this action, Defendants filed several motions to dismiss and pointed out multiple, dispositive defects in the Complaint. In response, Plaintiffs filed their First Amended Complaint (Doc. 36), resulting in another round of motions to dismiss and this Court’s dismissal of Plaintiffs claims without prejudice to Plaintiffs filing a second amended complaint in one final attempt to correct the numerous pleading deficiencies noted. (*See* Doc. 89, 5/9/2022 Memorandum of Decision, at 16-17.) Plaintiffs, now having had *three* opportunities to adequately plead their claims in this Court, should be precluded from further repleading efforts in this forum, leaving D&T to pursue the action brought against many of the same defendants sued in this action, which is still pending in the Texas state court (*D&T Partners, LLC vs. ACET Global, LLC, et al.*, No. DC-19-09828 District Court, Dallas County, 116th Jud. District) in which extensive discovery has taken place and trial is imminent.

Further, as to Credit Partners, absent the sparsely pled Counts I through III alleging civil violations of RICO, the FAC fails to allege any basis upon which this Court can exercise personal jurisdiction over Credit Partners in Texas, and the remaining claim against Credit Partners should be dismissed pursuant to Rule 12(b)(2) upon dismissal of Counts I through III.

Additionally, if Counts I through III alleging civil violations of RICO are dismissed as to *all* defendants, then this Court should decline to exercise supplemental jurisdiction pursuant to 28 U.S.C. § 1367(c)(3) over Plaintiffs' state law claims against Credit Partners and/or Cole pled in Counts IV and VI through VIX[sic].

WHEREFORE, for these reasons, discussed more fully in the accompanying memorandum of law submitted in support hereof, Moving Defendants respectfully submit that the SAC should be dismissed with prejudice in its entirety as to Credit Partners and Cole.

Respectfully submitted,

DANIELS TREDENNICK, PLLC

BY: /s/ Andrea L. Kim

Andrea Levin Kim

State of Texas Bar No. 00798327

Northern District Bar No. 00798327

DANIELS TREDENNICK, PLLC

6363 Woodway Dr., Ste 700

Houston, Texas 77057

Telephone: (713) 917-0024

Fax: (713) 917-0026

Email: andrea.kim@dtlawyers.com

Rachel Williams

State of Texas Bar No. 24067175

Northern District Bar No. 24067175

WILLIAMS LAW, PC

10300 N. Central Expy., Ste. 544

Dallas, Texas 75231

Telephone: (214) 550-2858

Fax: (214) 550-2856

Email: rachel@williamslawtx.com

COUNSEL TO DEFENDANTS SG

CREDIT PARTNERS, INC. and MARC

COLE

CERTIFICATE OF SERVICE

I hereby certify that on July 22, 2022, a copy of the foregoing was filed electronically by the EM/CMF System for the United States District Court for the Northern District of Texas and served by mail on anyone unable to accept electronic filing. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system or by mail to anyone unable to accept electronic filing. Parties may access this filing through the Court's system.

/s/ Andrea Levin Kim
Andrea Levin Kim